

06 Trusts

OVERVIEW

For the 2009–10 income year:

- 702,078 trusts lodged returns, a 6.4% increase from 2008–09
- total net income or loss reported by trusts was \$123.8 billion, a 19.5% increase from 2008–09
- trusts reported total business income of \$295.2 billion, a 5.8% increase from 2008–09
- total trust business expenses were \$285.5 billion, a 0.3% decrease from 2008–09.

INTRODUCTION

This chapter provides information on trusts, as reported on their trust income tax returns. A trust exists where a person, the 'trustee', is under an obligation to hold property or derive income for the benefit of another person or persons, known as 'beneficiaries'. This obligation usually arises under the express terms of a trust, but may also be imposed by court order or declaration, or by the operation of law. Although the trustees hold the legal title to the property, they must deal with it in accordance with the terms of the trust for the benefit of the beneficiaries.

Beneficiaries can include public and charitable institutions, and the potential beneficiaries of a discretionary trust can include people not yet born.

A trust is not a legal entity and generally does not pay tax in its own right. In general terms, it is the beneficiaries who are subject to tax on their share of the net income of the trust (or can claim a deduction for their share of any trust loss). Certain public unit trusts are taxed as companies, and are therefore not included in the statistics of this chapter.

The trustee is generally only taxed on the proportion of the net income of the trust that is accumulated in the trust or that relates to certain types of beneficiaries (such as those beneficiaries who are under a legal disability). That is, broadly speaking, the trustee is taxed on that part of the net income of the trust for tax purposes that is not assessable to a beneficiary. The net income of the trust is generally assessable to the trustee or the beneficiaries in the income year in which it is derived by the trust.

An annual tax return must be lodged for a trust, regardless of the amount of income derived by the trust, even if it derives nil income or incurs a loss for tax purposes.

NEW FEATURES AND INFORMATION

Statistics for the 2009–10 income year reported in this chapter may have been affected by:

- changes to the taxation of financial arrangements (TOFA)
- changes to the taxation of employee share schemes.

The following new labels were added to the 2010 trust tax return:

- Total TOFA gains (item 31 M)
- Total TOFA losses (item 31 N)
- TOFA transitional balancing adjustment (item 31 O)
- TOFA gains from unrealised movements in the value of financial arrangements (item 31 P).

TRUST RETURNS

For the 2009–10 income year, a total of 702,078 trusts lodged returns, representing a 6.4% increase from 2008–09. A total of 544,424 discretionary trusts lodged an income tax return for the 2009–10 income year, representing 77.5% of all trusts.

Table 6.1 Trusts, by type, 2008–09 and 2009–10 income years

Type	2008–09 ¹		2009–10 ¹	
	No.	%	No.	%
Discretionary trust – main source from investment	262,708	39.8	281,272	40.1
Discretionary trust – main source from trading	209,435	31.7	225,334	32.1
Unit trust	75,551	11.5	78,554	11.2
Deceased estate	41,921	6.4	43,142	6.1
Discretionary trust – main source from service-management	36,445	5.5	37,818	5.4
Other fixed trust	17,115	2.6	16,997	2.4
Hybrid trust	9,162	1.4	9,726	1.4
Public unit trust – unlisted	4,635	0.7	4,911	0.7
Cash management unit trust	562	0.1	551	0.1
Public unit trust – listed	377	0.1	373	0.1
Other ²	1,833	0.3	3,400	0.5
Total³	659,744	100.0	702,078	100.0

¹ Data for the 2008–09 and 2009–10 income years includes data processed up to 31 October 2010 and 31 October 2011 respectively. Data for 2008–09 has been revised.

² Includes invalid trust types and those trusts that did not state a type.

³ Totals may differ from the sum of the components due to rounding.

For the 2009–10 income year, the rental, hiring and real estate services industry had the largest proportion of trusts at 17.2%. The financial and insurance services industry was next largest with 13.1% of trusts.

Table 6.2 Trusts, by industry, 2008–09 and 2009–10 income years

Industry ¹	2008–09 ²		2009–10 ²	
	No.	%	No.	%
Agriculture, forestry and fishing	27,011	4.1	27,718	3.9
Mining	880	0.1	931	0.1
Manufacturing	14,096	2.1	14,829	2.1
Electricity, gas, water and waste services	848	0.1	887	0.1
Construction	49,474	7.5	54,022	7.7
Wholesale trade	11,730	1.8	12,356	1.8
Retail trade	26,799	4.1	28,581	4.1
Accommodation and food services	17,646	2.7	19,125	2.7
Transport, postal and warehousing	13,003	2.0	13,724	2.0
Information media and telecommunications	1,920	0.3	2,074	0.3
Financial and insurance services	90,659	13.7	92,204	13.1
Rental, hiring and real estate services ³	116,633	17.7	120,722	17.2
Professional, scientific and technical services	41,052	6.2	44,336	6.3
Administrative and support services	13,503	2.0	14,233	2.0
Public administration and safety	956	0.1	1,017	0.1
Education and training	2,626	0.4	2,942	0.4
Health care and social assistance	14,940	2.3	16,319	2.3
Arts and recreation	3,026	0.5	3,324	0.5
Other services	14,053	2.1	15,125	2.2
Other ⁴	198,889	30.1	217,609	31.0
Total⁵	659,744	100.0	702,078	100.0

1 The industry groups are classified based on the Australian and New Zealand Standard Industrial Classification (ANZSIC) 2006 codes on the Australian Business Register.

2 Data for the 2008–09 and 2009–10 income years includes data processed up to 31 October 2010 and 31 October 2011 respectively. Data for 2008–09 has been revised.

3 'Investment income recipients' statistics are included in this category.

4 Includes trusts that lodged a subsidiary return with income from non-primary production partnerships and trusts, those registered under the government administration and defence code and those that did not state their industry.

5 Totals may differ from the sum of the components due to rounding.

TRUST INCOME

Trusts receive income from a variety of sources, the largest in 2009–10 being from net non-primary production distributions from partnerships or trusts. Total net income reported by trusts increased by 27.8% to \$136.8 billion in 2009–10. Other Australian income was the main contributor to this growth with a rise of \$11.4 billion, followed by net other assessable foreign source income with a rise of \$10.5 billion.

Table 6.3 Trust income items, 2008–09 and 2009–10 income years

Income items	No.	2008–09 ¹ \$m	No.	2009–10 ¹ \$m
Net non-primary production distributions from partnerships or trusts	184,080	39,013	191,900	38,071
Gross interest	299,426	31,032	303,040	27,172
Gross (or total) dividends	134,892	20,514	141,785	20,615
Net income or loss from business	298,300	11,965	318,190	14,188
Other Australian income	20,341	1,579	22,805	12,945
Franking credit	130,432	8,104	137,089	7,783
Net rent	125,627	6,091	133,237	6,557
Net primary production distributions from partnerships or trusts	8,921	452	8,961	342
Super lump sums and employment termination payments	1,294	141	1,577	177
Forestry managed investment scheme income	337	3	485	11
Less other deductions	152,500	16,476	163,978	10,771
Less deductions relating to Australian investment income	72,936	8,394	74,320	6,577
Less deductions relating to forestry managed investment scheme	492	17	486	181
Net Australian income or loss²	621,612	94,009	659,224	110,333
Net other assessable foreign source income	55,928	6,430	56,615	16,884
Net capital gains	46,500	6,331	51,013	9,333
Attributed foreign income – total	597	209	541	258
Australian franking credits from a New Zealand company	362	36	801	1
Total net income^{2,3}	622,889	107,015	660,657	136,808
Less prior-year tax losses deducted	59,477	3,444	69,154	12,992
Total net income or loss^{2,4}	591,763	103,571	623,305	123,816

¹ Data for the 2008–09 and 2009–10 income years includes data processed up to 31 October 2010 and 31 October 2011 respectively. Data for 2008–09 has been revised.

² The number totals do not add up to the taxpayer number components as taxpayers may include more than one type of income in their tax returns. The dollar amount totals may differ from the sum of the components due to rounding.

³ Item 24 on page 6 of the trust return.

⁴ Item 26 of page 6 of the trust return.

TRUST BUSINESS INCOME

Net income or loss from business from table 6.3 is, in general, calculated as trust total business income less trust business expenses. For the 2009–10 income year, trusts reported total business income of \$295.2 billion, a 5.8% increase from 2008–09. Rental, hiring and real estate services was the main contributor to this growth with a rise of \$3.3 billion (18.3%) to \$21.4 billion.

Table 6.4 Trust total business income, by industry, 2008–09 and 2009–10 income years

Industry ¹	2008–09 ²		2009–10 ²	
	No.	\$m	No.	\$m
Agriculture, forestry and fishing	21,660	15,020	22,289	14,960
Mining	664	1,485	690	1,594
Manufacturing	12,218	22,085	12,760	21,207
Electricity, gas, water and waste services	731	841	747	888
Construction	38,121	34,899	41,717	37,282
Wholesale trade	9,883	30,705	10,311	31,111
Retail trade	22,313	53,466	23,595	56,207
Accommodation and food services	13,823	14,372	14,974	16,083
Transport, postal and warehousing	11,519	10,023	12,057	10,447
Information media and telecommunications	1,539	968	1,676	979
Financial and insurance services	22,816	22,648	23,903	24,375
Rental, hiring and real estate services ³	33,566	18,102	35,186	21,418
Professional, scientific and technical services	30,897	18,497	33,559	19,030
Administrative and support services	10,796	9,648	11,442	10,084
Public administration and safety	648	598	707	602
Education and training	2,266	912	2,533	954
Health care and social assistance	12,010	7,876	13,247	8,849
Arts and recreation	2,424	1,264	2,697	1,674
Other services	11,429	6,338	12,344	6,811
Other ⁴	17,627	9,222	19,773	10,620
Total⁵	276,950	278,968	296,207	295,175

¹ The industry groups are classified based on the Australian and New Zealand Standard Industrial Classification (ANZSIC) 2006 codes on the Australian Business Register.

² Data for the 2008–09 and 2009–10 income years includes data processed up to 31 October 2010 and 31 October 2011 respectively. Data for 2008–09 has been revised.

³ 'Investment income recipients' statistics are included in this category.

⁴ Includes trusts that lodged a subsidiary return with income from non-primary production partnerships and trusts, those registered under the government administration and defence code and those that did not state their industry.

⁵ Totals may differ from the sum of the components due to rounding.

Box 6.1 Trust size, by total business income

For the purposes of this chapter:

Total business income is the amount a trust declared at item 5 on page 3 of the 2010 trust tax return.

Loss trusts have a total business income less than \$0.

Nil trusts have a total business income equal to \$0.

Micro trusts have a total business income equal to or more than \$1 but less than \$2 million.

Small trusts have a total business income equal to or more than \$2 million but less than \$10 million.

Medium trusts have a total business income equal to or more than \$10 million but less than \$100 million.

Large trusts have a total business income equal to or more than \$100 million but less than \$250 million.

Very large trusts have a total business income equal to or more than \$250 million.

For the 2009–10 income year, micro sized trusts accounted for 30.6% of all trust total business income. The 'Micro' segment had the largest increase in total business income (a 6.8% increase on the previous year).

Table 6.5 Trust total business income, by trust size, 2008–09 and 2009–10 income years

Trust size	2008–09 ¹		2009–10 ¹	
	No.	\$m	No.	\$m
Loss	852	–2,309	727	–121
Nil	382,794	0	405,871	0
Micro	253,162	84,426	271,285	90,180
Small	19,200	77,412	20,281	81,602
Medium	3,573	82,831	3,754	87,611
Large	130	18,580	122	17,886
Very large	33	18,028	38	18,016
Total²	659,744	278,968	702,078	295,175

¹ Data for the 2008–09 and 2009–10 income years includes data processed up to 31 October 2010 and 31 October 2011 respectively. Data for 2008–09 has been revised.

² Totals may differ from the sum of the components due to rounding.

TRUST BUSINESS EXPENSES

For the 2009–10 income year, total business expenses for trusts were \$285.5 billion, a 0.3% decrease from 2008–09. The most significant expense claimed was the cost of sales, which accounted for 46.5% of all trust business expenses.

Table 6.6 Trust business expenses, by type, 2008–09 and 2009–10 income years

Type of expense	2008–09 ¹		2009–10 ¹	
	No. ²	\$m	No. ²	\$m
Cost of sales	117,143	125,164	125,341	132,684
Interest	176,223	18,247	184,900	19,035
External labour	68,032	7,807	74,173	8,568
Rent	101,122	7,709	107,615	8,381
Depreciation	227,828	6,586	244,287	7,435
Superannuation	129,823	5,330	135,140	4,673
Motor vehicle	168,402	3,016	182,032	3,088
Repairs and maintenance	156,491	2,631	164,876	2,772
Bad debts	16,007	409	16,835	1,430
Lease expenses	25,589	1,040	24,389	917
Royalty expenses	3,461	330	3,661	366
Foreign resident withholding expenses	85	23	139	47
Other expenses	292,160	108,017	311,593	96,119
Total³	297,883	286,309	317,561	285,515

¹ Data for the 2008–09 and 2009–10 income years includes data processed up to 31 October 2010 and 31 October 2011 respectively. Data for 2008–09 has been revised.

² Components do not add to the total number of taxpayers claiming expenses as taxpayers may claim more than one type of expense.

³ Totals may differ from the sum of the components due to rounding.

TRUST ASSETS AND LIABILITIES

For the 2009–10 income year, the total value of assets held by trusts increased by 3.9% over 2008–09, while the total value of their liabilities decreased by 6.8%.

Table 6.7 Trust total assets and liabilities, 2008–09 and 2009–10 income years

	2008–09 ¹		2009–10 ¹	
	No. ²	\$m	No. ²	\$m
Total assets	436,962	2,200,610	465,887	2,286,742
Total liabilities	416,336	957,817	443,705	892,319

¹ Data for the 2008–09 and 2009–10 income years includes data processed up to 31 October 2010 and 31 October 2011 respectively. Data for 2008–09 has been revised.

² Components do not add to the total number of taxpayers as taxpayers may have both total assets and total liabilities declared on their tax returns.

SOURCE OF TRUST STATISTICS

The statistics in this chapter are sourced from 2009 and 2010 trust income tax returns processed by 31 October 2010 and 31 October 2011 respectively. The statistics reported are not necessarily complete as the proportion of tax returns processed by 31 October each year can vary. We recommend you exercise caution when comparing the statistics for the current year and previous years.

Statistics reported in the detailed tables for the 1989–90 to 2009–10 income years have been updated to include returns processed by 31 October 2011. These statistics cannot be compared to those in previous editions of *Taxation statistics*.

A copy of the trust tax return form is in the appendix. You can view or download it in PDF file format from the attached CD-ROM or from the online version of *Taxation statistics* on our website at www.ato.gov.au

TRUST CHAPTER TABLES

The trust chapter tables are now on the attached CD-ROM and included in the online version of this publication on our website. You can now view or download all the chapter tables in Excel.

LIST OF TRUST DETAILED TABLES

The following detailed tables are on the attached CD-ROM and included in the online version of this publication on our website. You can view or download all detailed tables as PDF or Excel files.

To find out whether a particular item is included in a detailed table, refer to the trust return detailed tables index included on the attached CD-ROM and in the online version of this publication. The index lists the different items shown in the detailed tables and specifies the tables they appear in.

Table 1 Selected items, by net Australian income, 2009–10 income year

This table shows the number of records and amounts for selected items from the trust return form, broken down by net Australian income groupings.

- **Part A: Business income, expense and reconciliation items** – contains business income, expense and reconciliation labels from item 5 'Business income and expenses' on page 3 of the trust return.
- **Part B: Other income and expense items** – contains labels from items 6–7 on page 3 and items 8–13 on pages 3 and 4 of the trust return.
- **Part C: Other deductions, foreign income, capital gains, tax offsets and total net income** – includes labels from items 16–18 and 20–28 relating to the 'Deductions', 'Capital gains' and 'Foreign income' sections on pages 5 and 6 of the trust return.
- **Part D: Key financial information and business and professional items** – includes items 32–36 from the 'Key financial information' section on page 7 and items 39–58 and 60–61 from the 'Business and professional items' section on pages 8 and 9 of the trust return.

Table 2 Selected items, by broad industry, 2009–10 income year

This table shows the number of records and amounts for selected items from the trust return. Trust returns and the data are classified into broad industry groupings (determined by the taxpayer's main source of business income).

- **Part A: Business income, expense and reconciliation items** – contains business income, expense and reconciliation labels from item 5 'Business income and expenses' on page 3 of the trust return.
- **Part B: Other income and expense items** – contains labels from items 8–9 and 11–14 on pages 4 and 5 of the trust return.
- **Part C: Other deductions, foreign income, capital gains, tax offsets and total net income** – includes labels from items 16, 18, 20–21 and 23–28 relating to the 'Deductions', 'Capital gains' and 'Foreign income' sections on pages 5 and 6 of the trust return.
- **Part D: Key financial information and business and professional items** – includes items 32–36 from the 'Key financial information' section on page 7 and items 39–58 and 60–61 from the 'Business and professional items' section on pages 8 and 9 of the trust return.

Table 3 Selected items for income years 1989–90 to 2009–10

This table shows selected items from the trust return for income years 1989–90 to 2009–10, including number and dollar amounts.

Table 4 Selected items, by fine industry, 2009–10 income year

This table shows the number of trust returns and amounts for most items from the trust return. Trust returns and the amounts are classified into fine industry groupings (determined by the taxpayer's main source of business income).

- **Part A: Business income, expense and reconciliation items** – contains business income, expense and reconciliation labels from item 5 'Business income and expenses' on page 3 of the trust return.
- **Part B: Other income and expense items** – contains labels from items 8–9, 11–12 and 14 on pages 4 and 5 of the trust return.
- **Part C: Other deductions, foreign income, capital gains, tax offsets and total net income** – includes labels from items 16, 18, 20–21 and 23–27 relating to the 'Deductions', 'Capital gains' and 'Foreign income' sections on pages 5 and 6 of the trust return.
- **Part D: Key financial information and business and professional items** – includes items 32–36 from the 'Key financial information' section on page 7 and items 39–45, 47, 49, 51–53, 58 and 60–61 from the 'Business and professional items' section on pages 8 and 9 of the trust return.

Table 5 Trustee assessments: selected items, by taxable income and residential status, 2009–10 income year

This table shows the number of records and amounts for selected return items from the individual tax return of assessed trustees. The trustees assessed and the data are classified by taxable status (non-taxable and taxable) and are broken down by taxable income groupings.

Table 6 Selected items, by trust type, 2009–10 income year

This table shows the number of trust returns and amounts for most items from the trust return. Trust returns and the amounts are classified into trust type groupings.

- **Part A: Business income, expense and reconciliation items** – contains business income, expense and reconciliation labels from item 5 'Business income and expenses' on page 3 of the trust return.
- **Part B: Other income and expense items** – contains labels from items 8–12 and 14 on pages 4 and 5 of the trust return.
- **Part C: Other deductions, foreign income, capital gains, tax offsets and total net income** – includes labels from items 16, 18, 20–21, 23–25 and 27 relating to the 'Deductions', 'Capital gains' and 'Foreign income' sections on pages 5 and 6 of the trust return.
- **Part D: Key financial information and business and professional items** – includes items 32–36 from the 'Key financial information' section on page 7 and items 39–45, 47, 49, 51–53 and 60–61 from the 'Business and professional items' section on pages 8 and 9 of the trust return.

Table 7 Trusts, by type, 1996–97 to 2009–10 income years

This table shows trust type for income years 1996–97 to 2009–10. It includes returns processed by 31 October 2011 and those returns processed within the period from 1 July to 31 October of each income year.

❗ Page numbers refer to the 2010 trust tax return used by tax agents on behalf of their clients. A copy of this form is in the appendix.

❗ To meet privacy legislation and regulations, statistics for some items may not be included in the tables.